

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CHRISTOPHER LEE,

Plaintiff,

v.

Case No. 09-10723

THOMAS BIRKETT, et al,

HONORABLE AVERN COHN

Defendants.

**ORDER OVERRULING DEFENDANTS' OBJECTIONS TO MAGISTRATE JUDGE'S
ORDER DIRECTING PLAINTIFF TO FILE AN AMENDED COMPLAINT**

This is a prisoner civil rights case under 42 U.S.C. § 1983. In general terms, plaintiff, proceeding pro se, claims that defendants failed to provide sanitary prison conditions which posed a threat to his health in violation of his constitutional rights. The matter has been referred to a magistrate judge for all pre-trial proceedings.

The parties, particularly plaintiff, have filed several motions. Namely, plaintiff has filed three motions to amend his complaint (Dkt. # 25, 33, 41). Defendants have filed a motion for summary judgment, to which plaintiff has responded.

On October 23, 2009, the magistrate judge issued an order directing plaintiff to file a "Proposed Amended and Supplemental Complaint" by November 18, 2009.

Before the Court are defendants' objections to the order.

Having reviewed the order de novo in light of defendants' objections, the Court agrees with the magistrate judge that permitting plaintiff to file one complete pleading which details all of the claims he seeks to move forward on is appropriate under the

circumstances. While the Court appreciates defendants' arguments with regard to exhaustion and the apparent tension between the PLRA and Rule 15, as well as joinder issues, the better course is for plaintiff to file the proposed amended complaint. Once filed, defendants can raise exhaustion and joinder issues. Accordingly, defendants' objections are OVERRULED.

SO ORDERED.

s/ Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: November 12, 2009

I hereby certify that a copy of the foregoing document was mailed to Christopher Lee, #236321, Baraga Maximum Correctional Facility, 13924 Wadaga Road, Baraga, MI 49908 and the attorneys of record on this date, November 12, 2009, by electronic and/or ordinary mail.

S /Julie Owens
Case Manager, (313) 234-5160